

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/CS/SB 742

INTRODUCER: Community Affairs Committee, Health Regulation Committee, and Senator Detert

SUBJECT: Public Safety Telecommunicators

DATE: March 17, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe / Stovall	Wilson	HR	Fav/CS
2.	Howes	Yeatman	CA	Fav/CS
3.			HA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The Committee Substitute (CS) for Senate Bill 742 requires any person employed as a 911 public safety telecommunicator at a public safety answering point to be certified by the Department of Health (DOH) by October 1, 2012. The CS renames “911 emergency dispatchers” to “911 public safety telecommunicators” and expands the functions they perform related to 911 calls. The CS adds dispatching to the list of E911 services and revises the authorized expenditures of the E911 fee, to include the fees collected by the DOH for certification and recertification of 911 public safety telecommunicators. Certification requirements for public safety telecommunicators are outlined in the CS, including fees and requirements for applicants to sit for a certification examination developed by the DOH.

The CS revises provisions for disciplinary action and penalties against emergency medical personnel to include public safety telecommunicators. “Public safety telecommunication training program” is defined and the DOH, by rule, must establish procedures for the approval of such programs. The CS revises an existing grandfather clause for emergency dispatchers to include 911 public safety telecommunicators. Under the grandfather clause, the DOH must establish by rule, a procedure for the initial certification of 911 public safety telecommunicators who document 5 years of supervised full-time employment as a 911 public safety telecommunicator

or an emergency dispatcher since January 1, 2002. This grandfather clause is set to expire on October 1, 2012.

The DOH must establish by rule, a procedure that requires 20 hours of training for the renewal of public safety telecommunicator certification every 2 years. The requirements for the mandatory certification of 911 public safety telecommunicators may be temporarily waived by the DOH in a geographic area of Florida where a state of emergency has been declared by the Governor.

The CS provides a legislative finding that the act fulfills an important state interest.

This CS amends sections 365.172, 401.411, and 401.465, Florida Statutes.

The CS creates one unnumbered section of law.

II. Present Situation:

Emergency dispatchers are often the initial point of contact for the public when emergency assistance is required. Emergency dispatchers receive emergency calls from the public requesting police, fire, medical or other emergency services. These personnel determine the nature and location of the emergency, determine the priority of the emergency, and communicate the nature of the call to police, fire, ambulance, or other emergency units as necessary and in accordance with established procedures. Emergency dispatchers receive and process 911 emergency calls, maintain contact with all units on assignment, and maintain status and location of police, fire, and other emergency units, as necessary. Emergency dispatchers may be trained to enter, update, and retrieve information from a variety of computer systems to assist callers.

Many local agencies offer in-house training programs to their employees. Certification courses from private vendors are available to emergency dispatchers who may wish to show their proficiency in specified skills needed for emergency dispatch. The National Academies of Emergency Dispatch offers certification for emergency medical dispatchers, emergency fire dispatchers, emergency police dispatchers, and emergency telecommunicators. They provide a certification credential for medical, fire, and police functions in one comprehensive training program. The registration fees for these certification courses range from \$320 to \$550.¹

Emergency Dispatch in Florida

Section 365.171, F.S., governs Florida's public policy on the emergency telephone number "911." This statute specifies that it is the intent of the Legislature to "establish and implement a cohesive statewide emergency telephone number '911' plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number '911' with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services."

In Florida, local governments handle emergency dispatching in a variety of ways to accommodate local needs and budgeting priorities. The curriculum content and length of training

¹ National Academies of Emergency Dispatch, "Certification Course Overview," http://www.emergencydispatch.org/cert_home.php?a=cert (last visited Feb. 12, 2010).

programs vary by agency. According to the DOH, all 67 Florida counties have enhanced 911 dispatch, which allows an emergency dispatch center's computers to automatically provide the caller's name, address and mapped location. The map also identifies the closest police, fire, and emergency medical services (EMS) agencies. Emergency dispatch may be handled through one or more of the agencies that handle police, fire, and EMS.

With some variation, emergency calls in some counties go to a central dispatch. The dispatcher verifies the caller's location and the nature of the call, the call is then transferred to the appropriate dispatcher who dispatches the appropriate agency (law enforcement, EMS, fire) and Emergency Medical Dispatch (EMD) is utilized to provide the caller with instructions to treat the emergency while EMS is enroute.²

In some counties, when a caller dials 911, the call is directed to the Sheriff's Office. The dispatcher will determine the nature of the call and location and then decide if the call is for EMS or fire. At this point, the call may be transferred to the appropriate agency to handle the emergency or the call may be forwarded to a public safety dispatch center. If equipped, the public safety dispatch center will then provide EMD and send the appropriate EMS or fire units to the scene or the appropriate fire units to a fire emergency.³

E911 Fees

E911 fee revenues are collected as specified in s. 365.172, F.S., and are processed and disbursed through the Emergency Communications Number E911 System Fund, as outlined in s. 365.173, F.S. Expenditures for the E911 system are limited to call-taking and call transfer costs. The E911 Board has determined that training and certification costs for the 911 call-takers are allowable expenditures which include costs for emergency medical, police and fire pre-arrival instruction training and certification, as needed by the agencies. Although such costs have been determined to be allowable expenditures from the fund, the fee revenue in the fund does not fund all allowable expenditures. The Legislature recognizes that the fees authorized under s. 365.172, F.S., may not necessarily provide the total funding required for establishing or providing the E911 service.⁴

Department of Education Curriculum Framework and Standards

The Division of Workforce Education at the Department of Education publishes curriculum frameworks and standards aligned to the 16 Career Clusters delineated by the United States Department of Education. Each program's course standards are composed of two parts: a curriculum framework and the student performance standards. The curriculum framework includes four major sections: major concepts/content, laboratory activities, special notes, and intended outcomes. Student performance standards are listed for each intended outcome.

The Public Safety Telecommunication program is designed to prepare students for employment as a police, fire, ambulance, or emergency medical dispatcher. The program is divided into two levels. The first level, "Occupational Completion Point A," is a 208-hour curriculum designed for police, fire, and ambulance dispatchers. The second level, "Occupational Completion Point

² Source: Florida Department of Health (Leon, Pinellas, and Okaloosa Counties).

³ Source: Florida Department of Health. (Seminole and Miami-Dade Counties).

⁴ Section 365.172(2), F.S.

B,” is to be completed after the first level through an additional 24-hour curriculum designed for emergency medical dispatchers.

The intended outcomes for the Public Safety Telecommunication course for police, fire, and ambulance dispatchers include the ability of the dispatcher to:⁵

- Describe and demonstrate professional ethics and the role of telecommunicator;
- Describe Florida law and its application to telecommunication operation;
- Identify and define terminology pertinent to public safety telecommunication;
- Identify and explain communication equipment and resources;
- Demonstrate communication and interpersonal skills;
- Perform operational skills;
- Demonstrate understanding of hazardous materials awareness;
- Demonstrate proficiency in first responder to medical emergencies techniques and provide emergency medical care;
- Demonstrate knowledge of sexually-transmitted diseases, including AIDS;
- Comprehend stress management techniques; and
- Demonstrate employability skills.

The Public Safety Telecommunication program curriculum is currently taught at various community colleges and vocational/technical centers across the state.

Voluntary State Certification of Emergency Dispatchers

In 2008, the Florida Legislature enacted legislation establishing a voluntary certification program for 911 emergency dispatchers.⁶ A person who desires to be certified or recertified as a 911 emergency dispatcher can apply to the DOH under oath on forms provided by the DOH.⁷ The DOH is required to establish by rule the education and training criteria for certification and recertification. The law specifies requirements for a certification applicant to become certified, including completion of an appropriate 911 emergency dispatcher training program that is equivalent to the most recently approved emergency dispatcher course of the Department of Education and that consists of not less than 208 hours. An applicant must also complete and document at least 2 years of supervised full-time employment as a 911 emergency dispatcher since January 1, 2002. An applicant may become certified as an emergency dispatcher by documenting at least 5 years of supervised full-time employment as a 911 emergency dispatcher since January 1, 2002.

The fee for application for the 911 emergency dispatcher original certificate is \$75. Each 911 emergency dispatcher certificate is valid for 2 years, unless revoked or suspended by the DOH. The application fee for the 911 emergency dispatcher biennial renewal certificate is \$100.

OPPAGA Report on 911 Call Center Training in Florida

The staff of the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) completed a report that outlines options for creating minimum training standards for

⁵ See Florida Department of Education, “Curriculum Framework, Public Safety Telecommunication,” July 2007, http://www.fldoe.org/workforce/dwdframe/ps_cluster_frame08.asp (last visited Feb. 12, 2010).

⁶ See s. 2, ch. 2008-51, Laws of Florida, codified at s. 401.465, F.S.

⁷ See chapter 64J-3, Florida Administrative Code, which took effect March 17, 2009.

call-taking and dispatching within Florida's enhanced 911 system.⁸ The report found that the initial and in-service training provided to 911 call center staff varies across Florida. The report indicated that the call centers responding to their survey offer fewer than 208 hours of formal training to their call center staff and the majority of the training is on-the-job training rather than formal. Although the total number of 911 call center staff statewide could not be identified, it has been estimated that the call centers employ about 6,000 staff.⁹ The report indicated that funding for call-taker training comes from E911 funds and dispatcher training is paid primarily through local funding sources.¹⁰ The report concludes with several options for the Legislature to consider:

- Require 911 call centers to submit their training curricula to the DOH for approval;
- Direct the Department of Management Services to assist county coordinators and educational institutions in developing regional training programs that meet the requirements of the Department of Education's curriculum framework; or
- Direct the Department of Management Services to develop a statewide web-based training course that meets the Department of Education curriculum framework.

Finally, the OPPAGA report suggests that the Legislature may consider authorizing local governments to use E911 funds for dispatcher training, as current law does not allow these monies to be used for this purpose.

Sunrise Act

The Sunrise Act, codified in s. 11.62, F.S., requires the Legislature to consider specific factors in determining whether to regulate a new profession or occupation. The act requires that all legislation proposing regulation of a previously unregulated profession or occupation be reviewed by the Legislature based on a showing of the following:

- that substantial risk of harm to the public is a risk of no regulation which is recognizable and not remote;
- that the skills the profession requires are specialized and readily measurable;
- that other forms of regulation do not or cannot adequately protect the public; and
- that the overall cost-effectiveness and economic impact of the proposed regulation is favorable.

The act requires proponents of regulation of a previously unregulated profession to provide the agency that is proposed to have jurisdiction over the regulation and the legislative committees of reference information concerning the effect of proposed legislation to initially regulate a previously unregulated profession on the agency's resources to implement and enforce the regulation. Proponents of the mandatory certification of 911 emergency dispatchers provided an example of an incident that occurred in 2008 that explains the nature and extent of harm to the public caused by the unregulated practice of the occupation, but did not submit the information required by the Sunrise Act. Senate professional staff acknowledges that errors in emergency dispatch communication may lead to tragic results.

⁸ See "911 Call Center Training in Florida Varies; Options Exist for Creating Minimum Standards" OPPAGA Report No. 10-12, (Jan., 2010) at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-12> (last visited on Feb. 12, 2010).

⁹ *Id.*

¹⁰ *Id.*

A study conducted by the Florida Chapter of the Association of Public-Safety Communications Officials Standards and Certification Task Force in 2007 found that 28 states have mandatory training standards for emergency dispatchers, three states have voluntary training standards, and 20 states have no training standards. The task force also found that training programs across the country range from 40 hours to 640 hours. California, Illinois, New York, and Pennsylvania, mandate training for 911 call center staff.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 365.172, F.S., relating to authorized expenditures of the E911 fee, to add the dispatching function as an additional E911 service. The CS also includes as an authorized expenditure, the fees collected by the DOH for certification and recertification of 911 public safety telecommunicators as required in s. 401.465, F.S. (see section 3 of the CS).

Section 2 amends s. 401.411, F.S., relating to disciplinary action and penalties against emergency medical personnel, to include “health care professionals” and “other professionals” regulated under part III of chapter 401, F.S. This would include public safety telecommunicators and the medical directors of EMS transportation services for purposes of disciplinary actions related to unprofessional conduct and practicing without reasonable skill and safety by reason of illness, substance abuse, or mental or physical condition.

Section 3 amends s. 401.465, F.S., relating to emergency dispatcher certification, to change the title to “911 public safety telecommunicator” certification. The current definition of “emergency dispatcher” is renamed “911 public safety telecommunicator.” The duties and functions of a public safety dispatcher or 911 operator are expanded to include the receiving, transferring, and dispatching functions related to 911 calls.

The CS adds a definition of “public safety telecommunication training program,” which means a 911 emergency public safety telecommunications training program that the DOH determines to be equivalent to the public safety telecommunication training program curriculum framework developed by the Department of Education and consists of not less than 232 hours. The current voluntary certification requires a training program of not less than 208 hours for emergency dispatchers.

The CS requires any person employed as a 911 public safety telecommunicator at a public safety answering point to be certified by the DOH by October 1, 2012. A public safety agency, as defined in s. 365.171(3)(d), F.S., may employ a 911 public safety telecommunicator trainee for a period no greater than 12 months, if the trainee works under the direct supervision of a certified public safety telecommunicator, as determined by the DOH, and is enrolled in a public safety telecommunication training program. An applicant for certification or recertification as a 911 public safety telecommunicator must apply to the DOH under oath on forms provided by the DOH.

¹¹ See OPPAGA Report 10-12 (2010).

Instead of the current voluntary certification requirements for emergency dispatchers, the CS imposes mandatory certification requirements for public safety telecommunicators. An applicant for public safety telecommunicator certification must:

- complete an appropriate 911 public safety telecommunication training program;
- certify under oath that he/she, is not addicted to alcohol or any controlled substance, and is free from any physical or mental defect or disease that might impair his/her ability to perform his/her duties; and
- submit an application fee and a completed application.

Beginning October 1, 2012, applicants for the public safety telecommunicator certification must achieve a passing score on an examination administered by the DOH that measures the applicant's competency and proficiency in the subject material of the public safety telecommunication training program. The DOH must establish by rule, a procedure that requires 20 hours of training for the renewal of public safety telecommunicator certification every 2 years. The statutory fee caps for placing a certificate on inactive status and renewing an inactive certificate are reduced from \$100 to \$50.

The CS revises an existing grandfather clause for emergency dispatchers to include 911 public safety telecommunicators. Under the grandfather clause, the DOH must establish by rule a procedure for the initial certification of 911 public safety telecommunicators who document 5 years of supervised full-time employment as a 911 public safety telecommunicator or an emergency dispatcher since January 1, 2002. This grandfather clause is set to expire on October 1, 2012.

The DOH must establish by rule a procedure for the approval of public safety telecommunication training programs required by the CS.

Persons required to comply with the mandatory certification requirements for 911 public safety telecommunicators must pay \$50 for an initial application fee; an examination fee no greater than \$75; and a biennial renewal fee no greater than \$50. Public safety telecommunication training programs seeking department approval of the training program must pay an application fee that is no greater than \$50.

The requirements for the mandatory certification of 911 public safety telecommunicators may be temporarily waived by the DOH in a geographic area of Florida where a state of emergency has been declared by the Governor.

Section 4 includes a Legislative finding that the act fulfills an important state interest.

Section 5 provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill falls under subsection (a) of section 18 of Article VII, Florida Constitution. Subsection (a) provides that counties and municipalities are not bound by general laws

that require them to spend funds or to take action that requires the expenditure of funds unless certain exemptions or exceptions are met.

The estimated fiscal impact on local governments has not been determined. However, the E911 Board Prepaid Task Force Legislative Committee requested information from counties that have completed an estimate on the cost of the training associated with 911 public safety telecommunicators certification. Findings include: Polk County estimated \$600,315 in hourly wages and certification fees, which do not include the actual costs of training; Pinellas County indicated training costs could be as much as \$2,700,000; and Pasco County estimated personnel costs for training equal to \$574,000. Based on this information it appears as if the exemption for bills with an insignificant fiscal impact would not apply.

As for applicable specified constitutional exceptions, the bill requires similar expenditures by all similarly situated persons (i.e. state agencies such as the Florida Department of Highway Safety and Motor Vehicles (Florida Highway Patrol) and the Florida Fish and Wildlife Conservation Commission); therefore, the only additional requirement necessary to remove the bill from the purview of this constitutional provision is a finding that the Legislature fulfills an important state interest. The bill contains a finding that its provisions fulfill an important state interest.

B. Public Records/Open Meetings Issues:

The provisions of this CS have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this CS have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

D. Other Constitutional Issues:

The DOH must establish by rule a procedure for the approval of public safety telecommunication training programs required by the CS. To the extent that the CS does not provide sufficient guidelines to the DOH, it raises the question of whether the CS provides adequate limitations and safeguards so that the Legislature's delegation to the department is not a violation of Section 3, Article II of the Florida Constitution.

Under the nondelegation doctrine, the Florida Supreme Court struck down a former section of law respecting the power of the Board of Psychological Examiners to grant certificates with the title "psychologist" and to determine the qualifications of applicants as unconstitutional in that it failed sufficiently to fix the standards to be applied and in effect delegated the application of the statute without sufficient limitations on the board's discretion.¹²

¹² See *Husband v. Cassel*, 130 So.2d 69 (1961).

Section 3, Article II of the Florida constitution provides that the powers of the state government shall be divided into legislative, executive, and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein. The Florida Supreme Court recently reiterated the requirements of the nondelegation doctrine:

“[U]nder article II, section 3 of the constitution the Legislature ‘may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law.’¹³ This prohibition, known as the nondelegation doctrine, requires that ‘fundamental and primary policy decisions . . . be made by members of the [L]egislature who are elected to perform those tasks, and [that the] administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.’¹⁴

The Florida Supreme Court has acknowledged that “[w]here the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the [Delegation of Powers] doctrine.”¹⁵ “In other words, statutes granting power to the executive branch ‘must clearly announce adequate standards to guide . . . in the execution of the powers delegated. The statute must so clearly define the power delegated that the [executive branch] is precluded from acting from whim, showing favoritism, or exercising unbridled discretion.’”¹⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Persons required to comply with the mandatory certification requirements for 911 public safety telecommunicators must pay \$50 for an initial application fee; an examination fee no greater than \$75; and a biennial renewal fee no greater than \$50. Public safety telecommunication training programs must pay an application fee no greater than \$50.

B. Private Sector Impact:

The majority of 911 public safety telecommunicators are public sector personnel, although some private sector telecommunicators will also be subject to personnel and training costs under the CS.

C. Government Sector Impact:

The DOH will incur costs to implement the CS, including two full-time positions. The examination development costs for the 911 public safety telecommunicators are projected by the DOH to equal about \$52,840 (start-up costs) plus \$12,032 for yearly maintenance.

¹³ See *Bush v. Schiavo*, 885 So.2d 321 at 331 citing *Sims v. State*, 754 So.2d 657, 668 (Fla.2000).

¹⁴ See *Bush v. Schiavo*, 885 So.2d 321 (2004) at 331 citing *Askew v. Cross Key Waterways*, 372 So.2d 913, 925 (Fla.1978).

¹⁵ See *Askew v. Cross Key Waterways*, 372 So.2d 913 at 921. (Fla.1978).

¹⁶ See *Bush v. Schiavo*, 885 So.2d 321 at 331 citing *Lewis v. Bank of Pasco County*, 346 So.2d 53, 55-56 (Fla.1976).

The total expenditures are estimated at \$111,092 for fiscal year 2010-2011, and \$62,207 for fiscal year 2011-2012, but are offset by estimated revenue equal to \$189,275 for fiscal year 2010-2011 and \$279,000 for fiscal year 2011-2012. However, the CS delays the implementation date by 1 year so these fiscal estimates should be pushed back one year.

The DOH reports that state agencies such as the Florida Department of Highway Safety and Motor Vehicles (Florida Highway Patrol) and the Florida Fish and Wildlife Conservation Commission will be required to have their 911 public safety telecommunicator staff certified and will incur costs.

The DOH indicates that county and city agencies such as police, sheriff, fire, rescue, and EMS providers that utilize telecommunicators may have to budget for the cost of licensure and regulation of these potential licensees.

The estimated fiscal impact on local governments has not been determined. The E911 Board Prepaid Task Force Legislative Committee requested information from counties that have completed an estimate on the cost of the training associated with 911 public safety telecommunicators certification. Findings include: Polk County estimated \$600,315 in hourly wages and certification fees, which do not include the actual costs of training; Pinellas County indicated training costs could be as much as \$2,700,000; and Pasco County estimated personnel costs for training equal to \$574,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 17, 2010:

The Committee Substitute:

- Delays the effective date of when an applicant to be a public safety telecommunicator must pass an exam administered by the Department from October 1, 2011, to October 1, 2012.
- Delays the date by which the Department must establish by rule the initial certification of all 911 public safety telecommunicators or emergency dispatchers who have at least 5 years of supervised full time employment as a 911 public safety telecommunicator from October 1, 2011, to October 1, 2012.

CS by Health Regulation on February 18, 2010:

The Committee Substitute:

- Adds “dispatching” as an E911 service for purposes of authorized expenditures of the E911 fee;
- Eliminates reference to “the most recent” framework with respect to the public safety telecommunication training program curriculum framework;
- Corrects the requirement that a trainee must “work” under the direct supervision of a certified 911 public safety telecommunicator;
- Further reduces the reduction in the statutory fee caps for placing a certificate on inactive status, renewing an inactive certificate, and the biennial renewal of a 911 public safety telecommunicator certificate from \$75 to \$50;
- Reduces the initial application fee for certification as a 911 public safety telecommunicator from \$75 to \$50;
- Reduces the statutory cap on the new application fee for department approval of a public safety telecommunication training program from \$100 to \$50; and
- Adds a Legislative finding that this act fulfills an important state interest.

B. Amendments:

None.